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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,131	03/06/2001	Mark A. Weakly	UNL 3043	3820

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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT PAPER NUMBER

3713

DATE MAILED: 02/25/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,131

Applicant(s)

WEAKLY, MARK A

Examiner

Kathleen M Christman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19, 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 18, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

In response to the amendments filed 11/14/2003 and 11/26/2003 and the request for continued examination filed 11/26/2003.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on 11/14/2003 and 11/26/2003 have been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 2-8 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "wherein the site map displays to the user via the user processor and the teacher via the teacher processor the user's progress at any instant in time based on the history file" (underlined section added in the amendment dated 11/14/2003) is not enabled by the original presentation. Applicant has attempted to argue that this feature is inherent to the system (page 10, second paragraph of the response dated 11/26/2003) but has failed to show any factual evidence to support this statement. For a feature to be inherent it must be

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required for the proper functionality of the system. The specification does not provide for the updating of the history file from the study path to occur in real-time, thus providing this functionality to the system. Further there does not appear to be any description stating that the teacher may view the student's history file in a real-time environment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 7 and 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al (US 6149441) in view of Leshem et al (US 5870559). Pellegrino et al teaches a distance learning program having a URL structure of linked pages accessible by the user via the user processor wherein the linked pages include information to be taught to the user and the user navigates these pages to define a study path (claims 1, 16 and 17), see col. 2: 35-38 and col. 9: 49-61. This includes a beginning page that is linked to a course selection page (course unit), which is further linked to the pages containing educational material on the subject (as in claims 10-12), see Figures 3-8. Pellegrino et al teaches the ability to track user actions as they navigate through the lessons in the description of "Navigation Elements" starting at col. 22: 42. The functional components of the Pellegrino et al software may be stored client side, as in claim 9. However, Pellegrino fails to teach the specific functionality of this tracking software as recited in claims 1-4, 6, 7, 13 and 14.

Leshem et al teaches a software tracking system which track's a user's progress through a series of linked pages and creates a history file of the pages visited, said history file remotely stored on a server for independent access, see col. 3:10-18, as per claims 1, 16 and 17. The system includes the ability to display the site map to a user (or users in the case of showing the map to the student also) of the system

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based on the history file, upon request, as in claims 2 and 17, where in the sitemap is generated by a web-crawler program (col. 2: 8-10), as in claim 3. The site-map being color coded, as per claim 4, is taught in col. 2: 66 - col. 3: 5. Regarding claims 6 and 7, a tree view of the URL structure within the site-map is taught in col. 2: 30-35, and an outline view is taught in col. 16: 48-52. The URL being stored in the history file, as in claim 13, is taught at col. 28: 23-28. Regarding claim 14, this concept is demonstrated in Figure 4.

Given Pellegrino's teachings of the need for tracking software in an educational program it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the tracking system of Leshem et al into the web-based educational system of Pellegrino et al so as to provide an accurate mean for tracking a user's progress through the educational content.

With further regard to claim 4, the examiner notes that Lesham does not specifically teach the color coding indicates any of the pages previously accessed by the user, the page currently being accessed by the user, and the pages not previously accessed by the user. However, the examiner takes official notice that this specific color-coding of site-maps, and general web-page navigation is old and well-known in the art. Color-coding is commonly used so that users may easily distinguish between visited, currently active, and unvisited sites well navigating through web-pages. For this reason it would have been obvious to one of ordinary skill in the art to add this feature to the Lesham or Pellegrino inventions (see examiner's additional comments below).

Regarding claim 15, neither Pellegrino et al nor Leshem et al directly teaches that the tracking software is a java applet. It is the examiner's position that the specific language in which one chooses to program is a matter of design choice and bares no patentable weight.

Allowable Subject Matter

4. Claims 18, 20 and 21 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

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5. Claims 5 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. Claims 19, 22 and 23 are allowed.

Response to Arguments

7. Applicant's arguments filed 11/14/2003 and 11/26/2003 have been fully considered but they are not persuasive. Applicant has argues that Pellegrino does not concern itself with tracking the progressive study path that the user takes as he or she visits selected linked pages and progresses through the educational course and points to a statement in the specification that the tracker software program track's the user's study path to the individual page level. Further applicant asserts that this implicitly means that the invention ascertains and records movement from a page within the educational course to any other page of the course and so on. The examiner respectfully disagrees with the assertion that this teaching is implicit to the tracker software program as described and request the applicant to provide factual evidence to support this statement. Further, the examiner notes that it has been agreed upon that Pellegrino does not teach the specific functionality of the tracker software, and has not been relied upon for such. Pellegrino has been relied upon for the general teachings of a linked URL educational course and the concept of general user tracking through Navigation Elements to "allow the teacher to record the actions taken by the user as they progress through the selections provided", see col. 22: 43-45. The examiner has relied upon Lesham to teach the specifics of the tracker software. With regards to Lesham, applicant has argued that the traditional web server log used by Lesham to generate the individual paths will not record each and every request for a page due to web caching. The Lesham system clearly states that "Standard access log files which record each access to any page of the web-site are typically maintained by conventional web servers", see col. 3: 18-20. Applicant has failed to show any factual

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evidence which contradicts Lesham's assertion that each access to any page. Although the applicant has asserted that caching will prevent this, the applicant has admitted that the caching features of a web browser may be disabled and that in such an instance every access to a web page will be recorded. Lastly the examiner notes that no distinction has been made between the history file, the study path, and the "progressive" study path. These limitations each refer to the same body of information and are not distinct in any manner.

An addition to the above the applicant has argued that the examiner has supposedly overlooked that the progressive study path history file is stored remotely. This limitation was fully addressed in the above rejection of the claims. The limitations of claims 2 and 17 have been addressed above in the rejection of such.

Regarding claim 4, the examiner concurs that the color-coding of Lesham does not expressly teach the coding as claimed. However, the examiner has taken official notice that such color-coding is old and well known in the art. This is evidenced in any standard browser. For example, Netscape Navigator traditionally displays unviewed pages in blue, while active links are red, and viewed links are purple.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Liu et al (US 6308327 B1) teaches a system for tracking usage of web components in real-time
 - b. Kiso (US 5809250) teaches a system for storing the exact path a user takes through a series of web-pages, so that the exact path may be annotated and replayed
 - c. Wynn et al (US 6667751 B1) teaches a system for continually tracking a user's progress through a series of linked pages where the user may view their progress and link back to any previously viewed page

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kathleen M Christman



Teresa Walberg
Supervisory Patent Examiner
Group 3700